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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Final report on the situation of human rights in Afghanistan submitted by Mr. Felix Ermacora, Special Rapporteur, in accordance with Commission on Human Rights resolution 1992/68

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INTRODUCTION

1. The Special Rapporteur was first appointed to examine the question of human rights in Afghanistan in 1984 by the Chairman of the Commission on Human Rights, who had been requested to do so by the Economic and Social Council in its resolution 1984/37. Since then, his mandate has been renewed regularly by the Commission, in resolutions endorsed by the Economic and Social Council, in which the Special Rapporteur was requested to report to the Commission on Human Rights and to the General Assembly. So far, he has submitted eight reports to the Commission (E/CN.4/1985/21, E/CN.4/1986/2, E/CN.4/1987/22, E/CN.4/1988/25, E/CN.4/1989/24, E/CN.4/1990/25, E/CN.4/1991/31 and E/CN.4/1992/33) and eight to the General Assembly (A/40/843, A/41/778, A/42/667 and Corr.1, A/43/742, A/44/669, A/45/664, A/46/606 and A/47/656).

2. At its forty-eighth session, the Commission on Human Rights decided by resolution 1992/68 of 4 March 1992, to extend the mandate of the Special Rapporteur for one year, an extension which was confirmed by the Economic and Social Council in its decision 1992/240 of 20 July 1992. The Special Rapporteur submitted an interim report (A/47/656) to the General Assembly at its forty-seventh session containing preliminary conclusions and recommendations. The General Assembly took note with appreciation of the report in its resolution 47/141 of 18 December 1992, by which it decided to keep under consideration, during its forty-eighth session, the situation of human rights in Afghanistan in the light of additional elements provided by the Commission on Human Rights and the Economic and Social Council.

3. Subsequent to the renewal of his mandate by the Commission on Human Rights at its forty-eighth session, and in accordance with past practice, the Special Rapporteur again visited the area in order to obtain the most broadly based information possible. He visited Pakistan from 13 to 18 September and Afghanistan on 16 and 17 September 1992. His findings are reflected in the interim report to the General Assembly (A/47/656). He subsequently visited Pakistan from 29 January to 3 February 1993 and Afghanistan on 31 January 1993, with a view to gathering up-to-date information for the purposes of the present report. In addition, the Special Rapporteur also heard testimonies and held consultations relating to his mandate in Europe and the United States of America, in March, August, October and November 1992 and January 1993.

4. The Special Rapporteur thought it necessary to visit the capital of Afghanistan during the period after the adoption of General Assembly resolution 47/141 and prior to the forty-ninth session of the Commission on Human Rights. Despite numerous efforts to visit Kabul at the end of December 1992 and the beginning of 1993, the Special Rapporteur did not receive the required agreement of the Afghan authorities. In response to a letter he addressed to the Government on 2 December 1992 requesting permission to visit Kabul, the Special Rapporteur was asked by note verbale to postpone his visit until the last week of January 1993 in view of the holding of the Shura Ahl-e-Hal Wa Aqd (Council for problem-solving and agreement-making) from 29 December 1992 to 1 January 1993 when the necessary contacts between the Government and the Special Rapporteur would not have been feasible. During the forty-seventh session of the General Assembly, he had also received a verbal invitation from the First Deputy Minister for Foreign Affairs of

Afghanistan to visit that country in January 1993, which was also confirmed by the representative of Afghanistan in his statement before the Third Committee of the General Assembly. However, the Special Rapporteur did not receive an official reply to the proposed dates for his visit, which he subsequently submitted to the Government in keeping with its request. In addition, the Special Rapporteur was informed that owing to the situation prevailing in Kabul, the United Nations facilities allowing for a visit to that city would not have been sufficient. Nevertheless, during his last visit to Pakistan, the Special Rapporteur met with the Ambassador of Afghanistan to Pakistan on 1 February 1993 in Islamabad and reiterated his interest to meet with the Afghan Government and expressed his readiness to visit Kabul on 3 or 4 February or in the course of the forty-ninth session of the Commission on Human Rights.

5. In Afghanistan, the Special Rapporteur visited Jalalabad, the capital of Nangarhar province, on 31 January 1993, where he met separately with Haji Abdul Qadir, the Governor of that province, and with Maulavi Mohammad Nabi Mohammadi, the leader of the Harakat Inqilab Islami Afghanistan political party, with whom he discussed the current situation in Afghanistan and the developments which have taken place since the Shura Ahl-e-Hal Wa Aqd. In addition, the Special Rapporteur visited the Hadda and Mumtaz Camps near Jalalabad where he was able to interview displaced persons who had arrived recently from Kabul. He also met with representatives of humanitarian organizations based in Jalalabad.

6. The Special Rapporteur also intended to visit Mazar-i-Sharif, in Balkh province, and Herat, in Herat province, but was unable to do so for technical reasons.

7. During his visit to Pakistan, the Special Rapporteur had consultations in Islamabad with high-ranking officials of the Ministry for Foreign Affairs. While in Islamabad, he also met with the Ambassador of Afghanistan to Pakistan, Mr. Sardar Roshan and with Mr. Pir Sayed Ahmed Gailani, Leader of the National Islamic Front of Afgnanistan, with whom he exchanged views on the overall situation in the country, with particular reference to developments since the holding of the Shura Ahl-e-Hal Wa Aqd. In addition, the Special Rapporteur met with representatives of various humanitarian organizations.

8. In the North West Frontier Province, the Special Rapporteur had talks with the Acting Chairman of the Political Committee of the Hezbe Islami (Hekmatyar) political party as well as with a member of the Commanders' Shura (council) with whom he discussed the current situation in Afghanistan, with particular reference to human rights issues and the situation of prisoners. While in Peshawar, the Special Rapporteur visited the Kuwaiti Red Crescent Surgical Hospital where he was informed about the situation of patients. He also met with representatives of the International Committee of the Red Cross (ICRC) as well as with representatives of other humanitarian organizations and private individuals.

9. At the request of the Government of the Russian Federation, the Special Rapporteur visited Moscow on 28 January 1993 where he met with high-ranking officials of the Ministry for Foreign Affairs and the Ministry of Defence in order to discuss the situation of former Soviet prisoners of war held in

Afghanistan, and the situation of Afghan children who had been brought from Afghanistan to study in the former Union of Soviet Socialist Republics. While in Moscow, the Special Rapporteur also had consultations with the Deputy Chairman of the Parliamentary Committee on International Affairs and with a representative of the Committee for Soldiers Who Have Fought Abroad and Prisoners of War.

10. The Special Rapporteur has the honour to submit his final report to the Commission on Human Rights in accordance with its resolution 1992/68. It describes the most important new elements which, in the opinion of the Special Rapporteur, have affected the situation of human rights since his interim report (A/47/656) was submitted to the General Assembly. The Special Rapporteur wishes to recall that in September 1992 as well, he was unable to visit Kabul and meet with the representatives of the central Government. However, he was able to discuss the situation in Afghanistan with the First Deputy Minister for Foreign Affairs of the Islamic State of Afghanistan during the forty-seventh session of the General Assembly. The present update should therefore be considered together with the interim report.

11. The Special Rapporteur wishes to express his sincere appreciation for the assistance and cooperation he has received from the Afghan, Pakistani and Russian authorities. In this respect, he also wishes to thank the United Nations Office for the Coordination of Humanitarian Assistance to Afghanistan (UNOCHA) and the United Nations Development Programme (UNDP) for their most efficient logistical assistance without which his visit would not have been possible.

12. In addition to gathering information during the visits to Pakistan, Afghanistan and Russia and consultations he had in Europe and the United States with a view to informing the Commission on Human Rights and the General Assembly in the most impartial and objective manner possible, the Special Rapporteur followed the course of events throughout the period covered by this report, namely from March 1992 to January 1993, and systematically evaluated written and oral information relevant to his mandate received from various individuals and organizations. He has also consulted various reports prepared by United Nations bodies and specialized agencies, as well as those by non-governmental organizations which deal with the humanitarian and human rights aspect of the Afghan problem.

13. Chapter I of the present report describes specific human rights problems, with special emphasis placed on the situation of refugees and displaced persons which the Special Rapporteur continues to consider as important. It also considers the enjoyment of civil and political rights, as well as the question of economic, social and cultural rights. In addition, it examines the question of self-determination in the light of a political settlement of the Afghan question. Chapter II contains the conclusions and recommendations which the Special Rapporteur has drawn from the analysis of the available information.

I. SPECIFIC HUMAN RIGHTS PROBLEMS IN AFGHANISTAN

A. The situation of refugees and displaced persons as a problem of human rights

14. The year 1992 was characterized by the arrival of an exceptionally significant number of refugees returning to Afghanistan from Pakistan and the Islamic Republic of Iran. After the breakdown of the former Government in April 1992, more than 1.5 million refugees have returned to Afghanistan in the relatively short period of six months, despite the fact that the conditions in the country are still marked by a lack of central authority with normal links to the regions, political obstacles to the free movement of humanitarian supplies, intermittent hostilities, loose centres of authority in the regions and a lack of communications, banking and other basic services and utilities, in addition to the problem of mines, the lack of food and shelter and a totally collapsed infrastructure. As indicated in the Consolidated Appeal of the United Nations Secretary-General for Emergency Humanitarian Assistance for Afghanistan which was launched on 21 January 1993, the process of clearing the estimated 7 to 10 million mines which were laid in Afghanistan is slow and uneven. Refugees, among whom are many academics and intellectuals, who have sought asylum in Western countries, continue to remain abroad.

15. In paragraph 44 of his interim report to the General Assembly (A/47/656), the Special Rapporteur indicated that 80 per cent of persons suffering from mine injuries were recent returnees. During his visit to Peshawar, the Special Rapporteur visited the Kuwaiti Red Crescent Surgical hospital where he was informed that the level of mine casualties since September 1992 had remained the same. The majority of persons suffering from mine injuries came from the Paktia, Nangarhar, Kunar and Paktika provinces. The surgical hospital of ICRC reported that since April 1992, 60 per cent of its patients were suffering from mine injuries in comparison with 20 to 30 per cent before the massive repatriation took place.

16. Owing to the situation prevailing in Kabul, it is estimated that approximately 75,000 persons have sought refuge in Pakistan since April 1992. In addition, the number of persons displaced inside Afghanistan has risen dramatically for the same reasons and continues despite the winter season. It is estimated that more than 500,000 persons have left Kabul seeking shelter in safer areas. The Special Rapporteur was informed that the persons who had gone to Kabul during the war against the Soviet occupation army have now left the city. The Special Rapporteur was also informed that approximately 700 families had come to Jalalabad since September 1992 and that those now left in Kabul are the lowest-income families who cannot afford to leave. A total of 450 families had fled the city due to the fighting during the last week of January of whom 20 to 30 per cent proceeded to Pakistan while the rest remained in camps near Jalalabad. There were approximately 2,000 families in the Hadda camp near Jalalabad at the time of the Special Rapporteur's visit. During the last 4 days of January, 154 families arrived from Kabul to the Mumtaz camp near Jalalabad.

17. In addition, a new refugee problem is emerging as a result of the situation of civil war currently prevailing in Tajikistan, which has a common border with Afghanistan. It is estimated that more than 50,000 Tajik refugees

have crossed the border into Afghanistan where refugee camps have been set up for them in spite of the difficulties Afghanistan is facing with regard to internally displaced persons and returning refugees.

18. A prerequisite for the safe return of refugees is that appropriate conditions exist in the country and the communities which are absorbing them. International organizations have appealed to the world community to assist in meeting the needs of Afghanistan. In this respect, reference should be made to General Assembly resolution 47/119 concerning emergency international assistance for the reconstruction of war-stricken Afghanistan and to the subsequent Consolidated Appeal by the Secretary-General of the United Nations for Emergency Humanitarian Assistance for Afghanistan which contains detailed information concerning the economic needs of the Afghan people. The Deputy Minister for Foreign Affairs of Afghanistan also appealed for assistance in his statement before the General Assembly.

B. The situation of civil and political rights in Afghanistan

19. It would appear that the situation of civil and political rights in Afghanistan varies depending on the region. The situation in Kabul is untenable. It has been reported that the security situation in a number of provinces and localities such as Jalalabad, Ghazni, Herat, Logar and Kandahar is satisfactory. However, the deplorable incident of 1 February 1993 in which four members of the United Nations staff were killed when their vehicles were ambushed near Jalalabad, in Nangarhar province, shows that serious incidents may occur even in areas which are generally considered as safe. Human life and property, especially in Kabul, are still the targets of indiscriminate military attacks by rival groups. The Special Rapporteur was informed that looting has been severe in some areas of Kabul, especially those occupied by persons associated with the former Government, such as Microyan, or occupied by members of religious or ethnic minorities.

20. On 9 December 1992, heavy fighting between different groups caused numerous casualties in Kabul, with a reported 50 persons killed and 30 injured. After the holding from 29 December 1992 to 1 January 1993 of the Shura Ahl-e-Hal Wa Aqd, whose proceedings have been contested by a number of parties, the Government of Mr. Rabbani reportedly launched an offensive on 19 January 1993 with the aim of capturing positions held in and around Kabul by the Hezbe Islami (Hekmatyar) party and the Shia Hezbe Wahadat party which has reportedly already resulted in more than 1,000 deaths at the time of the finalization of the present report. Radio Kabul is said to have reported that many persons had been killed already on 20 January 1993. In the incidents brought to the attention of the Special Rapporteur, the death toll was placed at an average of 20 persons each day, although 200 are reported to have died and 800 wounded on 25 January, the majority of whom belonged to the city's civilian population. On 2 February 1993, 72 persons were reportedly killed in rocket attacks in Kabul and more than 80 wounded. Radio Kabul is said to have reported that 28 persons had died on 4 February 1993. The current death toll is estimated to be around 50 persons a day.

21. During his visit to the area, the Special Rapporteur was informed that patients were on occasion taken from Kabul by road to hospitals for the war-wounded in Pakistan when their condition had deteriorated for lack of

facilities. Displaced persons from Kabul told the Special Rapporteur that many wounded and dead people were lying in the streets. Numerous parts of the city have not had running water or electricity for months.

22. The large official detention centres are said to be empty, although the Special Rapporteur has not been able to visit them since January 1992. However, there have been reports of detainees who are held for political reasons. A number of members of the former Government are said to be detained by various groups and are allegedly held in inhumane conditions. The Special Rapporteur was informed that persons have been taken in groups of 20 to 30 and placed in houses at random. Approximately 1,300 prisoners are reportedly held by rival groups in detention centres in Paktia, Panjshir, Tarkhar, Ghazni, Helmand, Kunar and Badakhshan, while others are kept by field commanders in different parts of the country. The Special Rapporteur was informed in January 1993 that approximately 50 members of the Hezbe Islami political party were detained by government forces at the Pol-i-Charkhi prison near Kabul.

23. Squads belonging to different groups have allegedly resorted to the practice of terror and intimidation, often against innocent civilians. Persons belonging to armed groups as well as civilians have continued to be taken indiscriminately as hostages by enemy factions, on the basis of their religion, ethnic origin or political affiliation. The Special Rapporteur was informed that as a result of street fighting in Kabul the armed groups and persons living in these areas are becoming increasingly homogenous from the ethnical standpoint. He was also informed that approximately 1,500 Hezbe Islami (Hekmatyar) party activists had been arbitrarily detained in Kabul in the Wazir Akhbar Khan neighbourhood and in the premises of Shashtarak, and the Directorates Nos. 5 and 6 of the former secret police. The Special Rapporteur was informed that politically motivated abductions and arbitrary detention were also carried out under the guise of settling scores in family disputes.

24. The Special Rapporteur was informed that on 14 December 1992, Radio Afghanistan announced in the Pashto language that the "Kabul City Peace and Cleansing Committee" had ordered that all detained persons be released unconditionally as soon as possible. The Committee indicated that "no group had the right to capture or detain" persons. "All military groups who were taking advantage of the negative situation under various excuses" were urged to bring their prisoners to a particular square in Kabul and set them free in the presence of the Committee. The Special Rapporteur was also informed that as a goodwill gesture, the Hezbe Islami (Hekmatyar) group had unilaterally released and handed to ICRC 12 wounded prisoners at the end of January, hoping that the Government would release prisoners affiliated with the Hezbe Islami political party.

25. Since the allegations made concerning the carrying out of death sentences mentioned in his interim report to the General Assembly (A/47/656, para. 77), the Special Rapporteur has received no new information concerning the administration of justice in Afghanistan. The Special Rapporteur was informed that there is no central judicial system in the country as there is no effective communication between the capital and the provinces. Courts normally function within a three-tiered judicial system comprised of local (district) courts, provincial courts and the High Court in Kabul. The Special Rapporteur was informed, however, that proper judicial norms and procedures

were reportedly not followed and that there is no consistency in the judicial hierarchy. Although the Afghan Government has appointed Mr. Mohammad Shah Fazli as Chief Justice, his functions at present appear to be of a more or less honorary nature. The same appears to apply to the Deputy Chief Justice, Mr. Al-Haj Maulavi Rafiollah. In Nangarhar province, the Special Rapporteur was informed that courts functioned at the district and provincial levels but could not refer cases to the High Court in Kabul owing to the absence of a central government.

26. In his statement before the Third Committee of the General Assembly, the representative of the Afghan Government referred to allegations of human rights violations in Afghanistan, stating, inter alia:

> "Therefore, it would be reasonable, given Afghanistan's unusual predicament as the inheritor of 14 years of war, not to expect miracles from the Government of the Islamic State of Afghanistan, at least for a short duration of six months. It is regrettable that in the month of August of the current year, the security situation in the city of Kabul did not allow the Islamic State to host the Special Rapporteur in that city. I am fully certain that, had such a trip taken place, the contents of this report, especially certain paragraphs of it, would have contained a more realistic view of the situation in my country. For example, the stern judgement that appears in paragraph 116 of the report, principally and rationally, stronger and more firmly based proofs are required than hearsay and word of mouth."

27. With reference to the part concerning Afghanistan of Country Reports on Human Rights Practices for 1992, published by the Department of State of the United States of America, the Special Rapporteur has discussed the matter with eyewitnesses who have recently arrived from Kabul. He was informed that different groups have set up checkpoints on the main streets of Kabul and that there are 42 checkpoints on the 150 kilometre road between Kabul and Jalalabad. A man who was stopped at a checkpoint outside Kabul on the road to Pol-i-Charkhi was told by a field commander that "this is a different kingdom". In addition, the Special Rapporteur was told that no cease-fire agreements are respected, that looting is still taking place on a massive scale and that it is easy to get killed. He was also informed that a number of United Nations premises in Kabul have sustained heavy damage and that several embassies and diplomatic residences had also been hit by rockets and/or looted. The displaced persons from Kabul whom the Special Rapporteur was able to interview in the Hadda and Mumtaz refugee camps near Jalalabad indicated that in addition to artillery shells, machine-gun fire and rockets, their houses had also been bombarded by planes. Therefore, the Special Rapporteur cannot share at present the views expressed by the Afghan representative in his statement before the Third Committee of the General Assembly.

28. In his report to the General Assembly, the Special Rapporteur referred to the death sentences which had been carried out in Kabul, Jalalabad and Kandahar (see para. 25 above). In this connection, he would like to draw attention to two questions relating to capital punishment under the Shariah (Islamic law) on which the International Commission of Jurists sought the

opinion of Mr. M. Hidayatullah, a renowned Indian lawyer who has written numerous legal texts: whether the Shariah requires executions to be public, and, if not, whether public executions are contrary to the Shariah.

29. In his response, Mr. Hidayatullah stated the following:

> "I have taken time to research these two questions. In the chapter on 'punishments' (HADD) in the Hedaya only amputation is mentioned. I have been unable to find any discussion in the books on Islamic Law available here. In British India, Islamic Criminal Law was not applicable. In some of the Muslim states the doctrine of Qisas was applicable. This was nothing but the lex talionis - an eye for an eye and a tooth for a tooth. Qisas could however be claimed by the relatives of the murdered man and could also be waived and some other satisfaction taken instead for the death of the murdered man. In my own family, in the Muslim state of Bhopal, there was an incident which I have described in my memoirs ... in the following words:
>
> "... The assailant was caught in flagrante delicto, tried and convicted. The punishment was either death by decapitation or imprisonment for life. The family of the deceased had the option to claim Qisas and having done so, the accused was publicly decapitated. I am told that this was the last instance of such punishment, before it was replaced by death by hanging.
>
> "The penalty of death was differently administered till death by hanging became universal. In Islamic countries there is the penalty of stoning to death for the offence of zina (adultery). This is sometimes seen in Saudi Arabia."

30. As regards the situation of Hindus and Sikhs in Afghanistan, the Special Rapporteur has received information concerning their fate after the breakdown of the former Government. His attention was drawn to a letter addressed to the Secretary-General by the Afghan Hindu Association of North America concerning attacks on members of minority groups, including Hindus and Sikhs, some of whom have been living in Afghanistan for centuries. Numerous Hindus and Sikhs have reportedly been killed while others have fled Afghanistan, leaving behind their land, homes and businesses. According to the letter, their family members have been held hostage for ransom, murdered indiscriminately, female members have been raped, their homes with all belongings have been seized and occupied and their businesses have been looted and ransacked.

31. Owing to his inability to visit Kabul and meet with the competent authorities, the Special Rapporteur is not able to personally confirm the allegations concerning the current situation of Sikhs and Hindus in Afghanistan. He was informed, however, that it is estimated that 50 per cent of the Afghan Hindu and Sikh community have left Afghanistan and have sought refuge in India because they felt persecuted as non-Muslims, because of looting and attacks on their families and temples or because they had been openly encouraged to leave. Attacks on Hindu and Sikh temples were reported in Jalalabad and Kandahar following the incidents related to the Babri mosque in Ayodya, in India, at the beginning of December 1992. The Special

Rapporteur was informed by representatives of the Pakistani authorities that a task force arrangement had been established in cooperation with the Government of India in order to facilitate the safe transit of Sikhs and Hindus through Pakistan on their way to India.

32. In paragraph 87 of his interim report to the General Assembly (A/47/656), the Special Rapporteur indicated that a committee of ulema (Muslim clergy) was deliberating on whether female voices were to be allowed on the radio. The Special Rapporteur was informed that no women reporters were allowed on either the television or radio in Afghanistan.

33. As far as specific human rights violations are concerned, the Special Rapporteur would like to mention information which has been brought to his attention by a non-governmental organization based in Peshawar, Pakistan, called the Afghan League of Human Rights contained in its "Annual Report for 1992 - 15 January 1993". Although he was unable to personally verify the allegations brought forth by this organization, the Special Rapporteur thought it necessary to bring that report to the attention of the Commission on Human Rights. If true, the information contained therein shows that without law and order, human rights cannot be safeguarded in an emergency situation such as the one currently prevailing in Afghanistan.

Situation of prisoners of war from the former Union of Soviet Socialist Republics

34. A number of former Soviet prisoners are still detained by a number of mujahidin groups, although the hostilities in which the former Union of Soviet Socialist Republics was involved have ended and the country has ceased to exist as a State. During his visit to Moscow, at the invitation of the Russian Government, the Special Rapporteur discussed the situation of former Soviet prisoners of war with high-ranking officials of the Ministry for Foreign Affairs, the Ministry of Defence, a member of the Supreme Council of the Russian Federation and a member of the Committee for Soldiers Who Have Fought Abroad and Prisoners of War and received a list of former Soviet servicemen with a view to assisting on humanitarian grounds with their early release. The Russian authorities expressed their readiness to receive at any time an Afghan delegation in order to conduct negotiations on the matter. The Special Rapporteur was informed that no Afghans were forcibly detained in the territory of the Russian Federation and that the authorities were prepared to open all detention centres for inspection. He was informed that 26 Afghans were currently detained in the prisons of the former Union of Soviet Socialist Republics, all for criminal offences.

35. The Russian authorities informed the Special Rapporteur that they did not require the former Soviet servicemen to automatically be repatriated to Russia but would allow them to be interviewed in private by representatives of ICRC and express their wishes as to where they would like to go as a result of their free choice. The only condition was that a close family member should be allowed to visit the former prisoner at the location of the interview and be able to identify him. The Special Rapporteur was informed of recurring threats by mujahidin groups to kill the former Soviet prisoners of war they are holding. During his visit to Afghanistan and Pakistan, the Special

Rapporteur mentioned the subject of prisoners of war to representatives of certain political parties who expressed their readiness to negotiate the matter pending the fulfilment of a number of conditions.

C. Problems concerning the enjoyment of economic, social and cultural rights, including the question of the country's reconstruction

36. In his statement to the General Assembly on agenda item 141 concerning emergency international assistance for the reconstruction of war-stricken Afghanistan, made on 25 November 1992, the Deputy Minister for Foreign Affairs of Afghanistan, Mr. Hamid Kharzai, described in a dramatic way the economic situation of his country, stating that "there were not even the minimum conditions of life that would indicate any economic and developmental activity during the past many years, ... no roads, no health services, no means of communication and no schools for children or adults ... no electricity in the entire area". Candles were regarded as a luxury item. Most people were unemployed, sitting on sidewalks. The war had destroyed more than 200,000 acres of forest, over 43,000 acres of vineyards, 5.5 million heads of cattle and livestock had been exterminated, almost 2,000 school buildings, 120 health centres and 20 hospitals had suffered serious damage. The Deputy Minister pointed to the need for urgent assistance regarding heating fuel, food, shelter, primary health care and the continuation of the mine clearance programme.

37. In response to this appeal, the General Assembly adopted resolution 47/119 concerning emergency international assistance for the reconstruction of war-stricken Afghanistan. It was followed by the Consolidated Appeal by the Secretary-General of the United Nations for Emergency Humanitarian Assistance for Afghanistan, in the amount of US$ 138.1 million which was launched in January 1993 aimed at providing "life-sustaining" humanitarian action in areas such as mine-clearance, voluntary repatriation assistance, food aid, health, water supply, sanitation aid, agricultural inputs and other needs of the Afghan people. The appeals launched by the United Nations have already started to elicit a positive response: the United States of America, Sweden, Pakistan and Norway are among the countries which have pledged funds and goods. The President of the Islamic State of Afghanistan, Mr. Rabbani, has indicated that the Islamic Republic of Iran would give Afghanistan a loan of $50 million.

38. The above information shows that at the present moment, the enjoyment of economic, social and cultural rights is not guaranteed in Afghanistan and that without an extensive international programme, the enjoyment of the bare minimum of these rights cannot be envisaged during the current winter period and the near future. The de-mining process which is of paramount importance also calls for additional international efforts which should be intensified after the winter period.

D. The right to self-determination

39. For any change to occur in a country, there must be political stability, which includes the will of its inhabitants and its politicians to preserve that country's unity and to establish an effective central government. Whilst the Foreign Office of Afghanistan may appear to demonstrate the features of a

central government when viewed from abroad, this is misleading because there is still no effective government which truly represents all the country's political forces and segments of the population. An armed power struggle is still going on, between government forces and militant groups headed by political leaders and field commanders, and even struggle along ethnic and religious lines.

40. In his interim report to the General Assembly, the Special Rapporteur mentioned in the context of the right to self-determination the political development within Afghanistan as an approach to the exercise of the right to self-determination as described in paragraphs 99 to 105 of that report (A/47/656).

41. The Peshawar Accord of 24 April 1992 served as the basis for the creation of a Leadership Council headed by Mr. Burhanuddin Rabbani who would also be head of State for the following four months, after a two-month tenure of the Commission for the Transfer of Power. On 16 September 1992, it was announced that a Shura Ahl-e-Hal Wa Aqd would be held to elect the Government.

42. The Government has indicated that a commission for convening the Shura (Convocation Commission) had been formed, consisting of two representatives from each of the nine parties which were members of the Leadership Council. The Commission had not been able to complete its work at the end of Mr. Rabbani's four-month tenure and the Leadership Council decided to extend his term as president for an additional 45 days, until 15 December 1992. During this period, supervisory teams were sent "to various provinces" to supervise the election of representatives for the Shura, which was finally convened on 29 December 1992. The Government emphasized that all nine political parties had nominated representatives to the supervisory teams. A number of provincial shuras boycotted the Shura Ahl-e-Hal Wa Aqd, which was recognized by the Government. They argued that some of the representatives had not been selected in conformity with agreed procedures. The Government also recognized that a number of procedural irregularities had occurred. The total number of members of the Shura was to have been 1,336, according to the following breakdown:

Elected members of various constituencies	959
Elected members of nomads	85
Invited members from among prominent personalities	45
Members appointed by the Head of State	52
Members appointed by eight mujahidin parties (except JIA)	168
Members of the Convocation Commission	18
Members of the Leadership Council	9

43. The Government stated that not all members of the Shura participated in its deliberations. Of the 230 members who did not attend, the absence of representatives of the Hezbe Islami and Hezbe Wahadat political parties was

particularly noted. The leaders of five out of nine mujahidin parties boycotted the Shura Ahl-e-Hal Wa Aqd whose tasks were the election of the President, the approval of the interim constitution and the appointment of an interim parliament. Mr. Rabbani, who was the only candidate for presidency, received 916 votes. He took the oath of office at the last session of the Shura. There were 59 negative votes. The task of drafting and the approval of the constitution was transferred to the parliament, which was to be composed by 20 per cent from among the representatives of provinces who had been elected to participate in the Shura.

44. United Nations representatives were invited to attend the Shura Ahl-e-Hal Wa Aqd but were unable to comply for technical reasons. Therefore, the United Nations did not supervise or observe the Shura.

45. Seven out of nine political parties have voiced severe protests against the Shura Ahl-e-Hal Wa Aqd as not being in conformity with Afghan traditions, procedures and methods of election. They indicated that the box in which negative ballots were to be placed had been removed and that "even shopkeepers, bodyguards and drivers were dragged into the hall to vote". It has been alleged that more than 400 persons left with ballots and without having voted. Objections were also expressed about the fact that the President was entitled to select 5 per cent of the Shura members while the Leadership Council could select 15 per cent and that only two political parties were really represented. Numerous allegations concerning bribery of participants were also voiced. The Special Rapporteur was informed that the Shura had been totally rejected by the Kunar, Laghman and Nangarhar provinces.

46. The Special Rapporteur was able to obtain a video recording of the proceedings of the Shura Ahl-e-Hal Wa Aqd. He was able to observe that there was only one ballot box which had Mr. Rabbani's picture on it. According to the translation, the second ballot box, which was shown after the voting had taken place, was to be used for the counting of votes and was not filmed. The Special Rapporteur had been informed that no one had seen the counting of votes when Mr. Rabbani's election was announced by the media. The Special Rapporteur observed that no women were present. In his interim report to the General Assembly (A/47/656), he mentioned in paragraph 105 that a number of interlocutors with whom he had discussed the Shura stated that it would be composed only of clergymen. The Special Rapporteur was able to observe in the video recording that only clergymen appeared as speakers at the Shura.

47. The Shura Ahl-e-Hal Wa Aqd and its outcome may have been a political fait accompli, but they have given rise to both armed and unarmed political opposition. It has brought about a renewal of the armed conflict as well as attempts to solve the crisis through negotiations. Representatives of seven parties met in Jalalabad on 30 and 31 January 1993 to discuss a possible solution. Pir Sayed Ahmad Gailani, the leader of the National Islamic Front of Afghanistan, who participated in the meetings, submitted a proposal for a political solution. King Fahd of Saudi Arabia invited all Afghan political leaders to attend a meeting in order to resolve their differences. The former Afghan King, Zaher Shah, and the Hezbe Islami party have also made proposals for a political solution. (See annexes I to IV to this report which appear in chronological order.)

48. The political functions in the provinces are reportedly exercised by different shuras whose composition does not reflect that of the Government in Kabul. As long as there is no agreed power-sharing structure in Afghanistan, the political situation cannot be considered as stable and effective.

E. The situation of Afghan children in the territory of the former USSR

49. In relation to the question of former Soviet prisoners of war, the Special Rapporteur's attention has been drawn repeatedly by his Afghan interlocutors to the situation of Afghan children in Russia. During his visit to Moscow, he conducted an extensive discussion on the matter with the representatives of the Russian authorities. The Special Rapporteur was informed that 52 Afghan children were currently studying in educational institutions on the territory of the Russian Federation. He was informed that 750 children had been brought to study in the former Union of Soviet Socialist Republics on the basis of an intergovernmental agreement in 1985 and that approximately the same number arrived in 1986. The Special Rapporteur was informed that there was one boarding school each in Moscow, Volgograd, in the Krasnodar region, in Tashkent, in Tajikistan (near Dushanbe), in Kirgizistan and two boarding schools in Kazakhstan, where Afghan children received training in vocational skills which was devoid of ideological content, as part of humanitarian assistance to orphans, and were subsequently accorded benefits when applying for secondary schools and higher education. The representatives of the Russian authorities expressed their readiness to send back immediately all children studying on the territory of the Russian Federation, noting that they had also received an official request from the Afghan Government not to send children back in view of the situation prevailing in Kabul. Complete readiness was also expressed to deal with humanitarian problems, receive delegations and open all schools where Afghan children were educated for inspection.

II. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

50. Since the report of the Special Rapporteur to the Commission on Human Rights at its forty-eighth session, the political situation in Afghanistan has changed dramatically. The former Government handed over power to the Peshawar coalition in April/May 1992 in a peaceful manner.

51. The transfer of power was followed, however, by increasingly violent clashes between armed groups of various political factions and the five-point peace plan elaborated by the Secretary-General has finally not been implemented. The distribution of State power followed a pattern laid down in the Peshawar Accord of 24 April 1992. This agreement represents to a certain extent the political guideline for the policies of the new Government.

52. A Shura Ahl-e-Hal Wa Aqd was convened at the end of 1992. However, not all groups were represented nor were they in favour of this gathering and its decisions have not been generally recognized. The Shura appointed Mr. Burhanuddin Rabbani as President of the Islamic State of Afghanistan. The parliamentary assembly which was created from among the members of the Shura has been entrusted with the drafting of the constitution. The legitimacy of the Shura and its procedures have been contested. In the absence of a written constitution, the legitimacy of the Shura and its political validity may only be judged against the rules contained in the Koran. It would appear that the perception of the Shura as a fait accompli has divided the country, giving rise to a new wave of violence and is hampering the attainment of a peaceful political solution.

53. Military factions and factions formed along tribal and religious lines are currently struggling to gain political power, which has led to untold loss of life and property. Even United Nations premises in Kabul have been badly damaged and it has been reported that the damage incurred in the third week of January 1993 has exceeded that incurred in the course of the past 13 years. Staff of the United Nations and of non-governmental organizations who were providing humanitarian assistance to the Afghan people have been brutally murdered. Political power in the provinces is held by different groups and does not necessarily correspond to or is in agreement with the government decisions taken in Kabul. The danger exists that the armed struggle currently taking place in Kabul does not remain limited to the capital.

54. The Government has expressed its will to adhere to and respect those international human rights instruments to which Afghanistan is a party. A demonstration of this will was the participation of an Afghan delegation in the work of the Committee against Torture in November 1992.

55. The Special Rapporteur has been unable to visit Kabul for the second consecutive time. He has not received a reply regarding his request to visit Kabul at the end of January 1993. His reports about the current situation of human rights in the capital are based on second-hand evidence. One source of information about the situation in Kabul are the numerous displaced persons who have fled the capital due to the deterioration of the situation of human rights there. Their testimonies show that human life and property are not

respected in Kabul, despite a recently issued government anti-looting order. The Geneva Conventions, of 12 August 1949, must be respected by all combatants.

56. The Special Rapporteur has received reliable information regarding the existence of some 1,500 prisoners who are detained by different mujahidin groups and whose fate is uncertain. In addition, the fate of former Soviet prisoners has still not been clarified, nor has the fate of those who disappeared after 1978-1979. A mass grave discovered in September 1992 in Herat has not fully elucidated the matter to date.

57. The economic situation in the whole country is very preoccupying and the enjoyment of economic and social rights, including the right to education, is not guaranteed. The enjoyment of a minimum of these rights can only be achieved with the assistance of international governmental and non-governmental organizations to whom the world community owes its gratitude for the activities they have already carried out so far. However, their activities are dependent upon the security in the country.

58. The exercise of the right to self-determination of the Afghan people has entered a new phase after the breakdown of the former Government: article 1 of the International Convenant on Civil and Political Rights stipulates that peoples have the right to freely determine their political status. As stated in General Assembly resolution 46/137 of 17 December 1991, the principal method of exercising the right to self-determination is periodic and genuine elections. Owing to the situation currently prevailing in Afghanistan, such elections have not taken place (see A/47/668, report of the Secretary-General on enhancing the effectiveness of the principle of periodic and genuine elections). The Special Rapporteur is reluctant to recognize the results of the Shura Ahl-e-Hal Wa Aqd which was held between 31 December 1992 and 1 January 1993 as a valid basis for the political development in the country which does not involve the use of arms.

59. It appears that the decision concerning the political status of the country is still dependent on the outcome of an armed struggle for political power that the five-point peace plan of the Secretary-General had aimed to prevent.

60. A new feature in the power struggle is the demand of non-Pashtun ethnic groups to take part in the political power-sharing. This request has given rise to discussions about building the possible structure of the country along federalist lines. Federalism, however, requires a democratic framework.

61. The situation of human rights in Afghanistan continues to affect the peace and security in the region and remains a concern for international peace and security.

B. Recommendations

62. The Special Rapporteur wishes to reiterate the recommendations he has made in paragraphs 130, 131, 133, 134, 140, 141, 142 and 143 of his interim report to the General Assembly (A/47/656) as contained in paragraphs 63 to 70 below.

63. In the present stage of the conflict in Afghanistan, humanitarian law must be respected scrupulously: no attacks on populated areas and homes, no attacks on hospitals; the clause of article 147 of the fourth Geneva Convention urging against "grave breaches" must be respected.

64. Afghanistan should be required to issue a declaration on the basis of article 4 of the International Covenant on Civil and Political Rights (relating to human rights in emergency situations) and the Government should be invited strictly to observe article 4.

65. The International Committee of the Red Cross should be allowed to visit places of detention organized by combatants or government authorities wherever they may be, in the same manner as they were allowed to do so by the former Government.

66. The period of detention on remand or preventive detention should not exceed a reasonable length. Persons held in detention should be set free or undergo a regular trial. Persons in detention should be treated in conformity with the United Nations Standard Minimum Rules for the Treatment of Prisoners.

67. Refugees who have been associated with the former Government and to whom amnesty applies should not be discriminated against in obtaining political asylum until they are satisfied that they would not be persecuted upon return or endangered elsewhere.

68. In respecting the high values of the Islamic religion, the Afghan Government should be invited to accept United Nations monitoring or advisory services in the field of human rights for stabilizing the human rights situation in the country. The protection of minorities should be envisaged, in particular, as part of the fundamental laws of Islam.

69. Operation Salam (now called UNOCHA) should receive additional funds that would allow it to monitor the enjoyment of civil and political as well as economic, social and cultural rights in Afghanistan.

70. The situation of human rights in Afghanistan should be studied further and the new Government should be invited to collaborate with the United Nations in this regard.

71. The situation of human rights in Afghanistan after 14 years of war during which the social and economic infrastructure of the country has been destroyed depends crucially on the economic and social recovery of that country. This appears only to be possible once the political situation in the country stabilizes in a democratic manner. Stabilization depends on a democratic power-sharing structure with regard to a central government which represents all the democratic and ethnic factors in the country. The central government also requires a peaceful base at the local and regional levels.

72. The United Nations can assist Afghanistan in attaining this goal by enhancing the effectiveness of the principle of periodic and genuine elections. The Government of Afghanistan should be invited to initiate such a process within the framework of technical and advisory assistance offered by the United Nations system.

73. The political factors in the country should be required to create a body representing all segments of Afghan society to draft a constitution in which human rights and fundamental freedoms occupy a prominent place.

74. The general amnesty which has already been proclaimed should be applied without any discrimination. Prisoners detained without trial on Afghan territory should be released unconditionally. Keeping them as hostages runs contrary to all human rights standards. In particular, former Soviet prisoners who are presently detained in contravention of international humanitarian law should be released and given the possibility to go to the country of their choice.

75. A systematic search into the whereabouts of disappeared persons should be undertaken.

76. The international community should support the process of repatriation of the approximately four million Afghan refugees. In particular, all efforts should be undertaken to deal with the difficulties faced by internally displaced persons. In this context, the process of mine clearance must be vigorously pursued, as it would greatly assist in guaranteeing the right to life.

77. The Afghan Government should be invited to cooperate with the Special Rapporteur in order to provide the United Nations with an adequate and accurate picture of the situation of human rights in Afghanistan.

Annex I

A PRACTICAL PROGRAMME TO HELP RESOLVE THE ONGOING CONFLICT IN OUR HOMELAND
(proposed by the former Afghan King, Zaher Shah)

Rome, 17 January 1993

In the name of God the Merciful, the Compassionate

For fourteen years one of the longest and most bloody conflicts in modern times has caused deep misery, pain, and sorrow for the people of Afghanistan. This conflict has already left over one million Afghans dead. Tens of thousands have been handicapped or disabled. The fighting has forced millions of our fellow countrymen to flee their homes. Millions of Afghans still live in refugee camps in neighbouring Pakistan and Iran. Many others have sought sanctuary in India, Europe, the United States of America and elsewhere.

This long and bitter conflict has destroyed both the public and the private infrastructure of Afghanistan. Health care, education, and other social amenities are virtually non-existent for the vast majority of the Afghan people. The economy of the nation has totally collapsed.

The long-suffering people of Afghanistan are tired of the on-going conflict in their ancestral homeland, a conflict which now threatens the very survival of our nation; and we should not and cannot let it continue.

They want to see an ending to it: an ending that guarantees their legitimate rights and national unity in an Islamic and indivisible, free and independent Afghanistan.

The events of the past eight months have clearly demonstrated the total lack of consideration for our national interests; decisions are being taken without reference to the Afghan people, a selfish struggle for political power continues and foreign interferences prevail.

As a result of which, untold sufferings and destruction have taken place. It is now high time that the will of the people should be respected and all efforts should be focused towards attaining an equitable and practical solution acceptable to the majority of our nation.

What is required to end the tragedy in Afghanistan is the development and the promotion of a legitimate political process that can help the people of Afghanistan exercise their free will to achieve this noble objective.

Recognizing the vital necessity for such a process, I, as a lifelong servant of the Afghan people, therefore propose a practical programme to help resolve the on-going conflict in our homeland.

On the basis of Islamic and national responsibilities, I propose this programme to assist the people of Afghanistan to achieve success in their long struggle for peace and self-determination.

The programme that I now propose is a multi-stage process designed to conclude with the creation of a new broad-based government in Afghanistan; an elected government that is seen as legitimate and acceptable to the vast majority of the Afghan people and credible for the international community. Especially for those who stand ready to help the people of Afghanistan in their efforts to rebuild our country long ravaged by war.

Holding in high esteem the great Islamic, national, and traditional values of the Afghan people, the first major step of the programme I am proposing is the convocation of an Emergency Grand Assembly of the Afghan people (an Emergency Loya Jirga of the Afghan People).

The primary purpose of this Emergency Loya Jirga is to provide the genuine representatives of all Afghan elements an opportunity to participate in the election of a Head of State and the ratification of a provisional government proposed by the newly elected Head of State to govern in our beloved homeland until United Nations supervised elections can be held to choose a new Afghan Government.

The process I am proposing begins with the formation of an Organizing Committee of prominent, influential Afghans through an inter-Afghan dialogue and understanding to assist in developing a plan for the convocation of an Emergency Loya Jirga.

Respecting the free will of the Afghan people, I propose that this Emergency Loya Jirga be accomplished as part of the following three-phase programme:

1. Formation of an Organizing Committee of prominent, credible, widely respected, and influential Afghans through a United Nations supported inter-Afghan dialogue, to help develop a plan for an Emergency Loya Jirga of the Afghan people.

   This plan, developed with the close cooperation of the United Nations Secretary-General, should pave the ground for a well-organized and credible Emergency Loya Jirga.

   The Organizing Committee should then assist the United Nations in obtaining both the support and the agreements needed to implement its plan for the convocation of the Emergency Loya Jirga from all sides involved in the Afghan conflict and others in the international community interested in seeing peace and self-determination restored to the people of Afghanistan.

2. Following up with the plan developed during the first phase of this proposed programme, the Organizing Committee can then convene the Emergency Loya Jirga.

   As I have already noted, this assembly will elect a Head of State and ratify a provisional government proposed by this Head of State to govern in Afghanistan until United Nations supervised elections can be held to choose a new Afghan Government.

Delegates in the Emergency Loya Jirga will also define the functions and the duties of the provisional Government and the duration of its term of office.

While governing the country during its term of office, the main tasks and responsibilities of the provisional Government will be to draft a new constitution, restore order, ensure security, and create the conditions needed to help the people of Afghanistan begin the task of rebuilding the country and encourage a return of Afghan refugees from abroad. In addition, during its term of office, the provisional Government will have the task of drafting rules and preparing a schedule for United Nations supervised elections.

3. When the provisional Government has accomplished the tasks and the responsibilities entrusted to it by the Emergency Loya Jirga, the Head of State will then call a traditional Loya Jirga of the Afghan people.

The tasks of this Jirga will be to discuss and ratify the draft constitution and approve the proposed rules and schedule for United Nations supervised elections developed and submitted by the provisional Government.

These elections will then provide the people of Afghanistan an opportunity to exercise their free will and their legitimate right to have their own elected Head of State and Government.

I believe that with the completion of this step-by-step political process which I am proposing at this critical moment in Afghan history, the Muslim and freedom-loving people of our beloved homeland will achieve a revival of the Islamic, national, political and social values that bind us together as one nation. The successful conclusion of this programme will ensure a restoration of the peace, tranquillity, and coexistence needed in Afghanistan to protect the welfare and dignity of our valorous people.

I pray to God Almighty to help the Afghan nation succeed in accomplishing this Islamic, national, and humane mission.

Annex II

PROPOSAL FOR A SOLUTION
(Hezbe Islami Afghanistan (Hekmatyar) political party)

The parties, after mutual consultation, should form an interim Government for six months. Members of the interim cabinet will not be entitled to participate in the elections for an elected Parliament and Government.

An authoritative Election Commission should be formed for holding elections in the next six months. No agency will have the right to interfere in the work of the Commission. The determination of voters should be made by demarcation of constituencies, screening of the candidates should be the prerogative of the Election Commission and at the end of six months this Commission will supervise the elections.

Each constituency will have a local Shura comprising commanders, ulema and elders of tribes, which would be formed without the interference of the central government.

Members of the local Shura should revive local administrations and elect the heads of these departments from among its members. They would elect two members from their ranks to the provincial and central Shuras. These two members will be representing the people of any particular constituency at the level of province and at the level of the whole country.

The Shura heads of administrative units in each province will be reviving a sound and functioning administration in each province and will also be appointing a governor for each province. The central Shura comprising representatives from each district will be performing the following duties during the interim period:

- Drafting the constitution

- Supervising the performance of the interim Government.

Annex III

THE JALALABAD DECLARATION

30 January 1993

The majority of the Leadership Council present in Jalalabad have reached the following agreement:

1. The Leadership Council's meeting should continue.

2. General elections should take place within a year.

3. The majority of the leaders present have asked the two warring factions for a cease-fire and to prepare the ground for a correct and acceptable position for the second round of talks (which will most probably take place in Saudi Arabia).

4. The invitation of His Majesty King Fahd has been accepted in principle by all the participants.

Signatories: Maulavi Mohammad Nabi Mohammadi (Harakat Inqilab Islami), Mr. Sibghatullah Mojaddidi (Afghan National Liberation Front), Pir Sayed Ahmed Gailani (National Islamic Front of Afghanistan), Ayatollah Fazl (Hezbe Wahadat), Qazi Amin Wahad (Hezbe Islami Hekmatyar), Ayatollah Mohsini (Harakat Islami).

Annex IV

A PROPOSAL FOR A POLITICAL SOLUTION
(Pir Sayed Ahmad Gailani, National Islamic Front of Afghanistan)

(Received by the Special Rapporteur on 2 February 1993)

As a first step, the Leadership Council should be convened in a location inside Afghanistan acceptable to the majority to nullify the results of the Shura Ahl-e-Hal Wa Aqd.

The Leadership Council, together with a few non-political, well-meaning Afghan patriots, should invite a number of important and effective commanders, tribal elders, ulema, statesmen and representatives of Afghan intelligentsia and political parties to form a National Council with the following mandate:

(i) Consider the current state of affairs in Afghanistan and to explore ways and means of breaking the current political stalemate in the country and to end the fighting;

(ii) Elect a new Head of State and approve a new cabinet for a specified period. The Government members should have the experience and the necessary technical qualifications to run the organs of the State in a manner consistent with the political, security, social and economic needs of the country in these very difficult times. Efforts should be made that at least 50 per cent of the cabinet members come from outside political parties and are technocrats;

(iii) Form an independent committee the majority of whose members would be non-party individuals to propose procedures and methods for calling a Loya Jirga and for selecting its members. This committee will also be responsible for calling the Loya Jirga within a time frame to be established by the National Council. In this process an active role of the United Nations and the Organization of the Islamic Conference (OIC) will be important and indeed should be sought;

(iv) Review and approve a draft new constitution which will be drafted by the new interim Government and to be submitted to a Loya Jirga for final approval. The constitution should be Islamic and democratic; it should contain all safeguards that are usual in civilized societies and that it should specifically guarantee human rights, individual freedoms and equal political rights to every Afghan citizen without discrimination;

(v) Function as a Parliament and a legislative body until a Loya Jirga is formed or until an elected Government comes into being following the Loya Jirga.